IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETTON NO. 2950 OF 2004

Shankar Shantaram Dighe ... Petitioner

Vs.

The State of Maharashtra & Ors. Respondents

Mr. M.M. Chopra with Mr. M.B. Jadhav i/by
M.M.Chopra & Associaets for Petitioner.

Mr. Milind More, A.G.P. for Respondent No. 1.

Mr. G.D. Utangale for Respondent No. 3.

Ms. Neeta P. Karnik for Respondent No. 4.

CORAM : F.I. REBELLO,J.
DATED : DECEMBER 08, 2004

P.C.

. Rule. By consent heard forthwith.

. In the earlier petition being Writ Petition No. 1921 of 2004, by order dated 28.7.2004 the order was set aside and the matter was remanded back to the authority for disposal of the matter afresh. On remand by order of 9.9.2004 the application of the petitioner herein is once again been rejected. The authority has proceeded on the footing that the Petitioner herein has produced no documentary evidence i.e. ration card etc. to show that he was staying in the said structure on or before 1.1.1995 and that the documents produced pertains to the period after 1.1.1995. On perusal of the documents listed from Sr. Nos. 1 to 11 it would

show that apart from the documents at Sr. Nos. 2,3, 4 and 9 all other documents are previous to 1.1.1995. This would clearly show that total non application of mind on the part of Respondent No. 3. Apart from that another grievance is made by the petitioner that he has produced documentary evidence before the Respondent No. 3 to show that the ration card produced by Respondent No. 2 was forged document. The same has not been considered and has been ignored.

. Having heard learned counsel for the parties, in my opinion, the impugned order is liable to be set aside. The Respondent No. 3 who is deciding valuable rights of the parties ought to have given reasons as to why the case of the Petitioner cannot be accepted and why the case of Respondent No. 2 can be accepted. In the earlier order passed by this court on 28.7.2004 it was noted that he case of Respondent No. 2 has been accepted without giving opportunity to the petitioner and that the matter needs to be reconsidered. The authority concerned has not disclose in the order on what basis the case of Respondent No. 2 has been accepted considering the order of remand.

. In the light of that petition has to be allowed in terms of Prayer Clause (a). The Matter is remanded back to second Respondent to consider de

novo the claims of both the Petitioner and Respondent No. 2 and the documentary evidence produced by them and thereafter to pass appropriate order by giving reasons in the order to be passed.

. The Petitioner and Respondent No. 2 are directed to file any additional document if they want to file before 20.12.2004. The authority to decide the application thereafter after giving hearing to the parties on or before 18.1.2005. Rule made absolute accordingly. No order as to costs.

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(F.I. REBELLO,J.)